



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

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DECISION OF THE BOARD

Mailed and Filed: OCTOBER 06, 2022

IN THE MATTER OF:

Appeal Board No. 623882

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective March 8, 2020 through November 29, 2020, on the basis that the claimant did not comply with registration requirements. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed May 9, 2022 (), the Administrative Law Judge granted the claimant's application to reopen and sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board, insofar as it sustained the initial determination.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant last worked on March 3, 2020. Within five days he attempted to file a claim for benefits by calling the Department of Labor's 800 number from the Department's website. He was unable to file his claim. During the month of March 2020, the claimant called the same 800 number 20 times, about once a day, to file a claim. Sometimes he would receive a message that the system was overwhelmed with high call

volume. On the occasions when he was able to get through, his PIN was not accepted and he could not access the system to file his claim. He was unable to speak with a Department of Labor representative. He also sent four emails

to the Department in March 2020 but he did not get a response.

The claimant continued called the Department of Labor's 800 number in April, May and June 2020, calling 10 times in April, three times a week in May and two to three times per week in June. His PIN was still not accepted and he still was not able to file his claim for benefits or speak to a representative. During these months he continued to send one email per week to the Department, but he still did not get a response.

On June 18, 2020, a claim filed on June 18, 2020 was filed under the claimant's name and Social Security Number. However, that the claim was filed by someone else without his knowledge or permission.

The claimant continued to call the Department of Labor's 800 number two to three times per week in July and August 2020 and one to two times per week from September 2020 through November 2020. He had no success, as he still was unable to file his claim or speak to a representative. He also sent two internal emails per month to the Department of Labor but received no response.

After writing to his Congressmen and the Governor's office, the claimant was able to file a claim for benefits with the assistance of a Department of Labor representative on December 15, 2021.

OPINION: The evidence establishes that the claimant was unable to file a claim for benefits from March 8, 2020 through November 29, 2020. Significantly, the claimant was unable to file a claim for benefits with the Department of Labor by telephone, as he would either be informed that the call volume was high or his PIN number was not accepted. Although there was a claim filed on June 18, 2020 under the claimant's name and Social Security Number, it is significant that the claimant continued to try to contact the Department of Labor to file his claim for benefits even after the June 2020 claim was filed, and he also wrote to his Congressmen and the Governor's office. We therefore accept the claimant's testimony that the claim was filed by someone else without his knowledge or permission. After writing to his Congressmen and the Governor's office, the claimant was able to file a claim for benefits with the assistance of a Department of Labor representative on December 15, 2021. Despite his efforts to file his claim and to contact the Department of Labor, he was not able to properly file his claim for benefits. He had good cause for his failure to file his claim earlier. His failure to register earlier, which was beyond his control, is excused. Accordingly, we conclude that his claim is to

be backdated to March 8, 2020.

DECISION: The decision of the Administrative Law Judge, insofar as appealed from, is reversed.

The initial determination, holding the claimant ineligible to receive benefits, effective March 8, 2020 through November 29, 2020, on the basis that the claimant did not comply with registration requirements, is overruled.

The claimant is allowed benefits with respect to the issues decided herein.

MICHAEL T. GREASON, MEMBER